

COPY

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) UNITED STATES OF AMERICA (b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases): Los Angeles County (c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) ANDREW T. PRIBE, AUSA US Attorney's Office 300 N. Los Angeles St. #7211, Los Angeles, CA 90012 Tel: (213) 894-6551 Fax: (213) 894-0115		DEFENDANTS Comco Management Corporation; Concord Funding Co., LLC; Metco Management Corporation; Monex Credit Co., et al (See attached copy) County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only): Orange County Attorneys (If Known)																									
II. BASIS OF JURISDICTION (Place an X in one box only.) <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width: 40%;">Citizen of This State</td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> <td style="width: 30%;">Incorporated or Principal Place of Business in this State</td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td></td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF		<input type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																						
IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																											
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input type="checkbox"/> No MONEY DEMANDED IN COMPLAINT: \$																											
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) Pursuant to 26 U.S.C. Section 7402 and 28 U.S.C. Section 1331, 1340 and 1345																											
VII. NATURE OF SUIT (Place an X in one box only.)																											
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities /Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609																						

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number: SACV08-00668 JVS (MLGx)

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)

☒ Check here if the U.S. government, its agencies or employees is a named plaintiff.

Los Angeles County

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

☐ Check here if the U.S. government, its agencies or employees is a named defendant.

Orange County

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)

Note: In land condemnation cases, use the location of the tract of land involved.

Orange County

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____

Date June 13, 2008

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

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Attorneys for the United States of America

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

COMCO MANAGEMENT
CORPORATION; CONCORD
FUNDING CO., LLC; METCO
MANAGEMENT CORPORATION;
MONEX CREDIT CO.; MONEX
DEPOSIT CO.; NEWPORT
SERVICE CORP.; and PCCE, Inc.,

Defendants.

Case No.:

Complaint to Reduce Federal Income
Tax Assessments to Judgment and to
Impose Alter Ego, Single Enterprise,
Successor-in-Interest, and Transferee
Liability.

The United States of America, Plaintiff, for its complaint against Comco Management Corporation; Concord Funding Co., LLC; Metco Management Corporation; Monex Credit Co.; Monex Deposit Co.; Newport Service Corp.; and PCCE, Inc., Defendants, states:

Jurisdiction & Venue

1. This is a civil action to reduce federal tax assessments to judgment and to recover from entities liable for these unpaid federal tax liabilities. This Court has jurisdiction under 26 U.S.C. § 7402 and 28 U.S.C. §§ 1331, 1340, and

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge James V. Selna and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

SACV08 - 668 JVS (MLGx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====:

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

ORIGINAL

United States Attorney's Office
 SANDRA BROWN, Chief, Tax Division
 ANDREW T. PRIBE, AUSA
 300 N. Los Angeles Street, Room 7211
 Los Angeles, CA 90012

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

PLAINTIFF(S)

v.

Comco Management Corporation; Concord Funding
 Co., LLC; Metco Management Corporation; Monex
 Credit Co.; Monex Deposit Co.; Newport Service
 Corp.; and PCCE, Inc.,

DEFENDANT(S).

CASE NUMBER

SACV08-00668 JVS (MLGx)

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

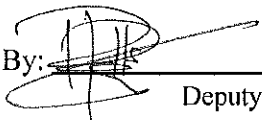
YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
ANDREW T. PRIBE, whose address is:

United States Attorney's Office
 300 North Los Angeles Street,
 Room 7211 Tax Division
 Los Angeles, CA 90012
 Tel: (213) 894-6551 Fax: (213) 894-0115

an answer to the ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim
 which is herewith served upon you within 20 days after service of this Summons upon you, exclusive
 of the day of service. If you fail to do so, judgement by default will be taken against you for the relief
 demanded in the complaint.

Clerk, U.S. District Court

Dated: JUN 13 2008

By:  Deputy Clerk

(Seal of the Court)

COPY

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Attorneys for the United States of America

2008 JUN 13 PM 4:32
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA

FILED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

COMCO MANAGEMENT
CORPORATION; CONCORD
FUNDING CO., LLC; METCO
MANAGEMENT CORPORATION;
MONEX CREDIT CO.; MONEX
DEPOSIT CO.; NEWPORT
SERVICE CORP.; and PCCE, Inc.,

Defendants.

Case No.: SACV08-00668 JVS (MLGx)

Complaint to Reduce Federal Income
Tax Assessments to Judgment and to
Impose Alter Ego, Single Enterprise,
Successor-in-Interest, and Transferee
Liability.

The United States of America, Plaintiff, for its complaint against Comco
Management Corporation; Concord Funding Co., LLC; Metco Management
Corporation; Monex Credit Co.; Monex Deposit Co.; Newport Service Corp.; and
PCCE, Inc., Defendants, states:

Jurisdiction & Venue

1. This is a civil action to reduce federal tax assessments to judgment
and to recover from entities liable for these unpaid federal tax liabilities. This
Court has jurisdiction under 26 U.S.C. § 7402 and 28 U.S.C. §§ 1331, 1340, and

1 1345.

2 2. This action is brought at the direction of the Attorney General of the
3 United States and at the request and with the authorization of the Chief Counsel of
4 the Internal Revenue Service, a delegate of the Secretary of the Treasury, pursuant
5 to 26 U.S.C. §§ 7401 and 7403.

6 3. Venue for the action is within the Central District of California under
7 28 U.S.C. §§ 1391(b) and 1396 because all Defendants reside in this district for
8 purposes of venue.

9
10 *Defendants, other relevant entities, and terminology.*

11 4. Comco Management Corporation is a California corporation and has
12 its principal place of business at 4910 Birch Street, Newport Beach, California.

13 5. Concord Funding LLC is a California limited liability company with
14 its principal place of business at 4910 Birch Street, Newport Beach, California.

15 6. Monex Credit Company is a California limited partnership with its
16 principal place of business at 4910 Birch Street, Newport Beach, California.

17 7. Monex Deposit Company a California limited partnership with its
18 principal place of business at 4910 Birch Street, Newport Beach, California.

19 8. Monex International, Ltd., was a California corporation that merged
20 into Monex Corporation. Monex Corporation changed its name to PCCE, Inc.
21 Monex International, Ltd., had its principal place of business at 4910 Birch Street,
22 Newport Beach, California.

23 9. Metco Management Corporation is a California corporation and has
24 its principal place of business at 4910 Birch Street, Newport Beach, California.

25 10. PCCE, Inc., (f/k/a Monex Corporation) is the successor of Monex
26 International, Ltd., and has its principal place of business at either 4910 Birch
27 Street, Newport Beach, California, or 2102 Business Center Drive, # 220L, Irvine,
28 California.

11. Newport Service Corporation is a California corporation with its principal place of business at 4910 Birch Street, Newport Beach, California.

12. The term "federal tax liabilities" refers to the tax liabilities specified in Count I and in paragraph 40 of Count II.

13. The term "Monex Enterprise" refers to the collective activity of the entities specified above in the leveraged sale of precious metals to the public.

14. The term "New Monex Entities" refers to Comco Management Corporation, Concord Funding LLC, Metco Management Corporation, Monex Credit Company, Monex Deposit Company, and Newport Service Corporation.

15. The term "Principals of the Monex Enterprise" refers to Louis Carabini and Michael Carabini. Other Principals of the Monex Enterprise are believed to include Kimbrough Bassett, John Tate, and Gregory Walker.

COUNT I Claim to reduce federal tax assessments to judgment

16. The United States realleges paragraph 1 through 15.

17. On June 15, 1998, a delegate of the Secretary of the Treasury timely made assessments of federal income tax against Monex International, Ltd., for the years 1980, 1981, 1982, 1983, and 1984. The total balance of those assessments, plus statutory accruals, less credits, is:

Year	Total Assessments	Total Credits	Assessed Balance	Accrued Interest	Accrued Failure to Pay Penalty	Total Balance (as of June 15, 2008)
1980	\$35,356,587.71	\$9,422,171.89	\$25,934,415.82	\$57,853,213.09	\$0	\$83,787,628.91
1981	\$29,800,455.33	\$0	\$29,800,455.33	\$56,136,348.52	\$940,288.75	\$86,877,092.60
1982	\$53,861,309.20	\$0	\$53,861,309.20	\$93,822,426.47	\$1,411,738.75	\$149,095,474.42
1983	\$128,499.04	\$0	\$129,449.04	\$50,482.49	\$2,568.50	\$181,500.13
1984	\$24,018,087.31	\$0	\$24,018,087.31	\$33,245,880.30	\$1,031,498.75	\$58,295,466.36

Total outstanding balance (as of June 15, 2008): \$378,237,162.42

1 18. Proper and timely notice and demand for payment of these tax
2 assessments has been made on Monex International, Ltd.

3 19. Despite timely notice and demand for payment of these tax
4 assessments, Monex International Ltd. has not fully paid the assessments.

5 20. Monex International merged into Monex Corporation.

6 21. Through the merger of Monex International into Monex Corporation,
7 Monex Corporation assumed the liabilities of Monex International.

8 22. Monex Corporation changed its named to PCCE, Inc.

9 23. As successor to Monex International, Ltd., PCCE, Inc., is liable for
10 the federal tax assessments.

11 24. The United States is entitled to judgment against PCCE, Inc., in the
12 amount of \$378,237,162.42 through June 15, 2008, plus subsequent statutory
13 accruals including interest and penalties plus costs and expenses.

14
15 **COUNT II**
16 **Claim to impose alter-ego / single-enterprise liability**

17 ***General allegations***

18 25. The United States realleges paragraphs 1 through 24.

19 26. The New Monex Entities are liable for the unpaid federal tax
20 assessments of Monex International, Ltd., because they are the alter egos of and
21 constitute a single enterprise with Monex International, Ltd.

22 27. The New Monex Entities share common ownership and interest with
23 Monex International because Louis Carabini owned and controlled Monex
24 International and owns and controls the New Monex Entities.

25 28. Recognition of the corporate separateness of the New Monex Entities
26 would be unjust as to the United States because:

- 27 a. Principals of the Monex Enterprise began the New Monex
28 Entities in an attempt to escape liability for the federal tax

- 1 liabilities of Monex International;
- 2 b. Principals of the Monex Enterprise sought to divert future
- 3 revenues of the Monex Enterprise away from Monex
- 4 International and into the New Monex Entities in an attempt to
- 5 shield such future revenues of the Monex Enterprise from
- 6 exposure to the federal tax liabilities;
- 7 c. In their dealings with the general public, Principals of the
- 8 Monex Enterprise sought to blend together Monex
- 9 International and the New Monex Entities in an effort to
- 10 capitalize on the name, history, and goodwill of Monex
- 11 International while using the purported corporate separateness
- 12 of the entities to shield proceeds from the Monex Enterprise
- 13 from exposure to the federal tax liabilities.
- 14 d. Principals of the Monex Enterprise used the resources of
- 15 Monex International in furtherance of the Monex Enterprise
- 16 while diverting the proceeds of the Monex Enterprise to the
- 17 New Monex Entities.
- 18 e. Principals of the Monex Enterprise fragmented the Monex
- 19 Enterprise into interdependent but separate entities in an effort
- 20 to shield the proceeds of the Monex Enterprise from exposure
- 21 to the federal tax liabilities.
- 22

23 ***Supporting allegations***

24 ***The Continuing Tax Liabilities of Monex International***

25 29. When the Principals of the Monex Enterprise transferred the Monex

26 Enterprise from Monex International to the New Monex Entities, they were aware

27 of significant exposure for federal tax liability of Monex International.

28 30. From 1980 to 1985, Monex International engaged in an abusive tax

1 shelter by which they reported and paid less tax than was due.

2 31. In March 1982, after an IRS audit, the IRS issued a notice of
3 proposed deficiency (commonly known as a "30-day letter") to Monex
4 International for years 1972 through 1975 for about \$5.8 million (not including
5 interest and penalties).

6 32. In 1986, the United States Tax Court issued its decision in *Glass v.*
7 *Commissioner*, 87 T.C. 1087 (T.C. 1986).

8 33. In *Glass*, the Tax Court disallowed purported losses on straddle
9 transactions on the London Metal Exchange because the transactions were shams
10 without economic substance.

11 34. The abusive tax-shelter transactions engaged in by Monex
12 International in 1980 through 1984 were substantially similar to the abusive tax-
13 shelter transactions that were the subject of the *Glass* case.

14 35. In January 1988, after an IRS audit, the IRS issued a 30-day letter to
15 Monex International for years 1976 to 1979 stating the IRS's determination that
16 Monex International had a federal tax deficiency of about \$1.8 million (not
17 including interest and penalties).

18 36. In August 1988, after an IRS audit, the IRS issued a 30-day letter to
19 Monex International for years 1980 and 1981 stating the IRS determination that
20 Monex International had a federal tax deficiency of about \$51.2 million (not
21 including interest and penalties).

22 37. In January 1990, the IRS issued a statutory notice of deficiency to
23 Monex International stating the IRS determination that Monex International had a
24 federal tax deficiency of about \$6.3 million for the tax years 1972 through 1979.

25 38. In April 1990, Monex International filed suit in the United States Tax
26 Court regarding the 1972 through 1979 deficiencies.

27 39. This 1990 Tax Court suit was not resolved until March 1995.

28 40. Regarding the 1990 Tax Court suit, the Government and the Monex

1 International stipulated to a determination of deficiencies for the 1974 and 1978
2 tax years. The Tax Court entered judgment pursuant to the stipulation and these
3 deficiencies were assessed in 1995.

4 41. In August 1992, the IRS issued a statutory notice of deficiency to
5 Monex International stating the IRS determination that Monex International had a
6 federal tax deficiency of about \$172.4 million (not including interest and
7 penalties) for tax years 1980 through 1984.

8 42. In October 1992, Monex International filed suit in the United States
9 Tax Court regarding the 1980 through 1984 deficiencies.

10 43. This 1992 Tax Court suit was not resolved until February 1998 when
11 the Government and Monex International stipulated to a determination of
12 deficiencies for the 1980 through 1984 tax years.

13 44. The Tax Court entered judgment in February 1998 pursuant to the
14 stipulation which resulted in the tax assessments for the 1980 through 1984 years
15 which are at issue in this case.

16 45. A suit in the Tax Court generally restrains the IRS from assessing the
17 tax, levying on property, or filing suit to collect the deficiency.

18
19 *The Principals of the Monex Enterprise altered the Corporate Structure to Avoid*
20 *the Tax Liability While Continuing the Monex Enterprise*

21 46. The Monex Enterprise is engaged in the leveraged sales of precious
22 metals to the general public. The Monex Enterprise makes money from their
23 customers through commissions, fees, monthly interest, and service charges.

24 47. Beginning in the late 1980s and continuing through the early 1990s,
25 the Principals of the Monex Enterprise transferred the operation of the Monex
26 Enterprise from Monex International to the New Monex Entities in an effort to
27 avoid exposure of the proceeds from the Monex Enterprise to outstanding federal
28 tax liabilities.

1 48. Monex Deposit Company and Monex Credit Company are California
2 Limited Partnerships formed in 1987 and constitute the core of the New Monex
3 Entities.

4 49. Monex Deposit Company engages in the retail sale of precious
5 metals.

6 50. Monex Credit Company provides financing to customers of Monex
7 Deposit Company in the leveraged purchase of precious metals.

8 51. Newport Service Corporation provides the other entities of the Monex
9 Enterprise with all administrative, data processing, personnel, accounting, legal,
10 purchasing and other operational services.

11 52. Concord Funding Co., LLC, is a controlled entity of Monex Deposit
12 Company and Monex Credit Company.

13 53. Concord Funding Co., LLC, is integrally tied to the Monex Enterprise
14 through various agreements entered into by Concord Funding, Monex Deposit
15 Company, and Monex Credit Company in 1995 and 2002.

16 54. Comco Management Company is the general partner of Monex
17 Deposit Company.

18 55. Metco Management Company is the general partner of Monex Credit
19 Company.

20 56. Although Louis Caribani owned and controlled Monex International
21 and owns and controls the New Monex Entities, there were no mutual equity
22 interests as between Monex International and the New Monex Entities.

23 57. Beginning in 1988, employees of Monex International were shifted to
24 Newport Service Corporation.

25 58. By 1990, Monex International had no employees.

26 59. During and around 1991 many of the employees were shifted from
27 Newport Service Corporation to Monex Deposit Corporation.

28 60. The Monex Enterprise used the same telephone numbers—800-854-

1 3361 and (714) 752-1400— both before and after the shift of the Monex
2 Enterprise from Monex International to the New Monex Entities.

3 61. The Monex Enterprise used the same office space—4910 Birch
4 Street, Newport Beach, California—both before and after the shift of the Monex
5 Enterprise from Monex International to the New Monex Entities.

6 62. The Principals of the Monex Enterprise controlled the assets of both
7 Monex International and the New Monex Entities.

8 63. The Principals of the Monex Enterprise transferred the goodwill of
9 Monex International and the Monex Enterprise to the New Monex Entities.

10 64. In promotional materials believed to have been used by the New
11 Monex Entities in June 1990, Monex Credit Company and Monex Deposit
12 Company were identified as being “affiliate companies” of Monex International,
13 Ltd.

14 65. Since at least December 1996, Monex Deposit Company—through its
15 website monex.com—has sought to capitalize on the name, history, and goodwill
16 of the Monex Enterprise from long before the existence of the New Monex
17 Entities.

18 66. In December 1996, Monex Deposit Company on its website
19 represented that the “Monex group of companies have served the precious metals
20 investing public since 1967.” It stated: “Monex affiliated companies have been
21 offering precious metals investments since 1967. Monex Deposit Company
22 (MDC) and its affiliates have executed transaction with customers totaling over
23 \$14 billion.”

24 67. In August 2006, Monex Deposit Company represented on its website:
25 “Monex is the largest and oldest investment firm offering precious metals to the
26 individual investor and as such we have products and programs that we believe are
27 unique in the industry. Our 30-year history is a testimonial to the fact that we
28 know this business and provide a real service to the investing public.”

68. In August 2006, Monex Deposit Company represented on its website: “Monex has the experience, expertise and resources to serve most any precious metals investor’s needs. Since 1967, well over one hundred thousand investors have purchased billions of dollars of gold, silver, platinum and palladium bullion and bullion coins from Monex.”

69. In February 2007, Monex Deposit Company represented itself to the public on its website as being “America’s most trusted name in precious metals for more than 30 years.”

70. In February 2007, Monex Deposit Company on its website represented that the “Monex group of companies was founded by Louis E. Carabini in 1967” “For over 30 years, the Monex companies have been America’s gold and precious metals investment leader.” “Today, three generations of the Carabini family are now working with the Monex companies, including founder Louis Carabini . . . his son, Michael, . . . and his daughter, Christina. In addition, more than 20% of Monex employees have been with the company for a decade or more . . . many of them for over 25 years.”

71. The United States is entitled to judgment against Comco Management Corp.; Concord Funding, Co. LLC; Metco Management Corp.; Monex Credit Co.; Monex Deposit Co.; and Newport Service Corp. in the amount of \$378,237,162.42 through June 15, 2008, plus subsequent statutory accruals including interest and penalties plus costs and expenses because they are the alter egos of and constitute a single enterprise with Monex International, Ltd.

COUNT III

Claim to impose successor-in-interest liability

72. The United States realleges paragraphs 1 through 71.

73. The New Monex Entities are liable for the unpaid federal tax assessments against Monex International, Ltd., because they are the successors-in-

1 interest to Monex International, Ltd.

2 74. The New Monex Entities assumed the Monex Enterprise, and its
3 employees, location, phone numbers, and goodwill during the late 1980s and early
4 1990s without providing fair consideration to Monex International.

5 75. Through the conveyance of the Monex Enterprise, the United States
6 is left without recourse against Monex International.

7 76. The United States is entitled to judgment against Comco Management
8 Corp.; Concord Funding, Co. LLC; Metco Management Corp.; Monex Credit Co.;
9 Monex Deposit Co.; and Newport Service Corp. in the amount of \$378,237,162.42
10 through June 15, 2008, plus subsequent statutory accruals including interest and
11 penalties plus costs and expenses because they are the successors-in-interest of
12 Monex International, Ltd.

13
14 **COUNT IV**

15 **Claim to impose fraudulent-conveyee liability**

16 77. The United States realleges paragraphs 1 through 76.

17 78. The New Monex Entities are liable to the United States for the assets
18 received from Monex International and their proceeds because the New Monex
19 Entities are the fraudulent conveyees of the Monex Enterprise, and its employees,
20 location, phone numbers, and goodwill from Monex International, Ltd.

21 79. The transfer of the Monex Enterprise, and its employees, location,
22 phone numbers, and goodwill during the late 1980s and early 1990s was made
23 with the intent to prevent the United States from reaching the assets and income of
24 the Monex Enterprise.

25 80. The transfer of the Monex Enterprise and its employees, location,
26 phone numbers, and goodwill was without receiving reasonably equivalent value
27 in return and while the Principals of Monex believed or reasonably should have
28 believed that Monex International would be without resources to pay the

1 outstanding federal tax liability.

2 81. The New Monex Entities assumed the Monex Enterprise, and its
3 employees, location, phone numbers, and goodwill during the late 1980s and early
4 1990s without providing fair consideration to Monex International.

5 82. The United States is entitled to judgment against Comco Management
6 Corp.; Concord Funding, Co. LLC; Metco Management Corp.; Monex Credit Co.;
7 Monex Deposit Co.; and Newport Service Corp. as fraudulent conveyees of
8 Monex International, Ltd., and attaching the assets transferred and their proceeds
9 in satisfaction of the Government's claim.

10
11 WHEREFORE, the United States of America requests the Court to:

12 (a) Enter judgment against PCCE, Inc., in the amount of \$378,237,162.42
13 as of June 15, 2008 plus subsequent statutory accruals including interest and
14 penalties plus costs and expenses;

15 (b) Find that Comco Management Corp.; Concord Funding Co., LLC;
16 Metco Management Corp.; Monex Credit Co.; Monex Deposit Co.; and Newport
17 Service Corp. are the alter egos of and constituted a single enterprise with Monex
18 International, Ltd.;

19 (c) Find that Comco Management Corp.; Concord Funding Co., LLC;
20 Metco Management Corp.; Monex Credit Co.; Monex Deposit Co.; and Newport
21 Service Corp. are successors-in-interest of Monex International, Ltd.;

22 (d) Enter judgment against Comco Management Corp.; Concord Funding
23 Co., LLC; Metco Management Corp.; Monex Credit Co.; Monex Deposit Co.; and
24 Newport Service Corp. in the amount of \$378,237,162.42 plus subsequent
25 statutory accruals including interest and penalties plus costs and expenses;

26 (e) Find that Comco Management Corp.; Concord Funding Co., LLC;
27 Metco Management Corp.; Monex Credit Co.; Monex Deposit Co.; and Newport
28 Service Corp. are fraudulent conveyees of the Monex Enterprise from Monex

1 International, Ltd.;

2 (f) Enter judgment against Comco Management Corp.; Concord Funding
3 Co., LLC; Metco Management Corp.; Monex Credit Co.; Monex Deposit Co.; and
4 Newport Service Corp., for the assets transferred and their proceeds and attach
5 those assets and their proceeds in satisfaction of the Government's claim; and

6 (g) Order any further relief it deems just and appropriate.
7

8 DATED: June 13, 2008

THOMAS P. O'BRIEN
United States Attorney

10 SANDRA R. BROWN
11 Assistant United States Attorney
12 Chief, Tax Division

13 ANDREW PRIBE
14 Assistant United States Attorney

15 Attorney for Defendant
United States of America
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